

REMARKS

In the Office Action mailed August 23, 2005, the following issues were raised:

1. Claim 11 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite based on the term "similarly proportioned".
2. Claims 1-3, 5-7, 9-11, 13-16, 18, 19, 21-23, and 26 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,404,182 to Kump.
3. Claims 4, 8, 12, 20, and 25 were rejected under 35 U.S.C. § 103(a) as obvious over the Kump reference in view of U.S. Patent No. 740,846 to Giddings.
4. Claims 17 and 24 were rejected under 35 U.S.C. § 103(a) as obvious over the Kump reference in view of U.S. Patent No. 3,300,245 to Rumble.

New claim 27, which depends from claim 22, has been added. Support for this claim may be found in the specification in Figs. 5 and 6 and the accompanying description in ¶ 17. The patentable subject matter of new claim 27 lies at least in the patentability of claim 22 and in having the plies of the foot protector orthogonal to the plies of the leg.

Claim 11 has been amended to remove the "similarly proportioned" language. Amended claim 11 now recites that the body portion and the tenon portion "have approximately the same widths." Support for this limitation is found in ¶ 14 of the written description and Fig. 3. In view of the amendment to claim 11, Applicant requests withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

Claim 1 was rejected as anticipated by the Kump reference. A rejection based upon anticipation requires that each and every limitation of the claim be disclosed by the cited reference. MPEP § 2131. Applicant has amended claim 1 to include the limitations of a "unitary" body portion and "the body portion being the only structure supporting the tenon portion". Neither of these limitations are disclosed by the Kump reference.

The Kump reference discloses furniture having U-shaped legs, which may be formed out of plywood. Because each leg is U-shaped, each leg has two support structures (25), and both support structures (25) provide support to the cross member (26). Thus, the Kump reference does not disclose the limitations of a "unitary body portion" or "the body portion being the only structure supporting the tenon portion". As such, the Kump reference does not anticipate amended claim 1.

Each of claims 2, 3, 5, and 6 depend from amended claim 1 and were also rejected as anticipated by the Kump reference. Where the Kump reference does not anticipate amended claim 1, it also does not anticipate any of claims 2, 3, 5, and 6.

Claims 7 and 11 were also rejected as anticipated by the Kump reference. Amended claims 7 and 11 include the limitations of "a unitary body portion" and "the body portion is the only structure supporting the first and second tenon portions". For the same reasons discussed above in relation to amended claim 1, the Kump reference does not anticipate amended claims 7 and 11.

Each of claims 9, 10, 13, and 14 depend from one of amended claims 7 and 11 and were also rejected as anticipated by the Kump reference. Where the Kump reference does not anticipate amended claims 7 and 11, it also does not anticipate any of claims 9, 10, 13, and 14.

Claim 15 was also rejected as anticipated by the Kump reference. Amended claim 15 includes the limitations of "a unitary body portion" and "the body portion is the only structure supporting the first and second tenon portions". For the same reasons discussed above in relation to amended claim 1, the Kump reference does not anticipate amended claim 15.

Each of claims 16, 18, 19, and 21 depend from amended claim 15 and were also rejected as anticipated by the Kump reference. Where the Kump reference does not anticipate amended claim 15, it also does not anticipate any of claims 16, 18, 19, and 21.

Claim 22 was also rejected as anticipated by the Kump reference. Amended claim 22 now includes the limitation that the foot protector includes "a plurality of wood plies". The Kump reference does not disclose this limitation, either expressly or inherently. While the Kump reference does disclose a foot protector (45), no mention is made as to the material from which the foot protector is constructed. Further, Kump does not imply that a foot protector formed from a plurality of wood plies is appropriate for use to protect the foot portion of the leg, which is itself formed of a plurality of wood plies. As such, the Kump reference does not anticipate amended claim 22.

Each of claims 23 and 26 depend from amended claim 22 and were also rejected as anticipated by the Kump reference. Where the Kump reference does not anticipate amended claim 22, it also does not anticipate any of claims 23 and 26.

Each of claims 4, 8, 12, 20, and 25 were rejected as obvious over the Kump reference in view of the Giddings reference. In order to establish a *prima facie* case of obviousness, all of the limitations found in the rejected claims must be disclosed or taught by the cited references. MPEP § 2143. Each of claims 4, 8, 12, 20, and 25 depend from one of claims 1, 7, 11, 15, or 22. As stated above, the Kump reference does not teach all the limitations found in each of these independent claims. Therefore, the Kump reference also does not teach all the limitations for any of claims 4, 8, 12, 20, and 25. Furthermore, the Giddings reference does not fill in the knowledge gaps where limitations are not taught by the Kump reference. As such, the combination of the Kump and Giddings references does not establish a *prima facie* case of obviousness over any of claims 4, 8, 12, 20, and 25.

Each of claims 17 and 24 were rejected as obvious over the Kump reference in view of the Rumble reference. In order to establish a *prima facie* case of obviousness, all of the limitations found in the rejected claims must be disclosed or taught by the cited references. MPEP § 2143. Each of claims 17 and 24 depend from one of claims 15 or 22. As stated above, the Kump reference does not teach all the limitations found in each

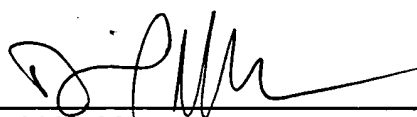
of these independent claims. Therefore, the Kump reference also does not teach all the limitations for either of claims 17 and 24. Furthermore, the Rumble reference does not fill in the knowledge gaps where limitations are not taught by the Kump reference. As such, the combination of the Kump and Rumble references does not establish a *prima facie* case of obviousness over either of claims 17 and 24.

Based upon the foregoing, reconsideration of the rejections is requested.

Respectfully submitted,

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